

# Portugal

## Section 1. Respect for the Integrity of the Person, Including Freedom from:

### d. Arbitrary Arrest or Detention

The constitution and law prohibit arbitrary arrest and detention, and the government generally observed these prohibitions.

#### Role of the Police and Security Apparatus

The Ministries of Internal Administration and Justice are primarily responsible for internal security. The Ministry of Internal Administration oversees the SEF, the PSP, and the GNR. The SEF has jurisdiction over immigration and border problems. The PSP has jurisdiction in cities, and the GNR has jurisdiction outside cities. The PJ are responsible for criminal investigations and report to the Ministry of Justice. The IGAI, responsible to the Ministry of Internal Administration, investigates security force killings and evaluates whether they occurred in the line of duty or were otherwise justifiable.

Civilian authorities maintained effective control over the SEF, the PSP, and the GNR, and the government has effective mechanisms to investigate and punish abuse and corruption. An independent ombudsman chosen by parliament and the IGAI investigates complaints of abuse or mistreatment by police. Nongovernmental organizations (NGOs) criticized the slow pace of investigations and the lack of an independent oversight agency to monitor the IGAI and the Ministry of Internal Administration.

#### Arrest Procedures and Treatment of Detainees

The constitution and law provide detailed guidelines covering all aspects of arrest and custody, and authorities generally followed the guidelines. Persons may be arrested only on a judicial warrant; law enforcement officials and citizens may make warrantless arrests when there is probable cause that a crime has just been or is being committed, or that the person to be arrested is an escaped convict or a suspect who escaped from police custody.

Authorities may not hold a suspect for more than 48 hours without bringing him before an investigating judge. Under the law the investigating judge determines whether an arrested person should be detained, released on bail, or released outright. Authorities informed detainees promptly of charges against them.

Investigative detention for most crimes is limited to four months. If authorities do not file a formal charge within that period, they must release the detainee. In cases of serious crimes such as murder, armed robbery, terrorism, and violent or organized crime, and of crimes involving more than one suspect, the investigating judge may decide to hold a suspect in detention while the investigation is underway for up to 18 months and up to three years in extraordinary circumstances.

Bail exists, but authorities do not release detainees on their own recognizance. Depending on the severity of the crime, a detainee's release may be subject to various legal conditions.

Detainees have the right to legal counsel from the time of arrest, but police, in particular the PJ, did not inform detainees of their rights in many cases. If detained persons cannot afford a private lawyer, they only have access to an appointed lawyer at the court hearing before a judge up to 48 hours after the moment of apprehension. The government assumes legal costs for indigent detainees. In 2013 the CPT delegation also met a number of persons, including some detained by the PJ, who claimed they had not been able to inform a member of their family of their detention.

Pretrial Detention: Lengthy pretrial detention remained a problem. As of September 15, there were 2,172 individuals (17 percent of the prison population) in pretrial detention, a decrease from the previous year. Most pretrial detainees spent six months to a year in incarceration. Observers, including the media, business corporations, and legal observers, estimated the backlog of cases awaiting trial to be at least a year. Lengthy pretrial detention was usually due to lengthy investigations and legal procedures, judicial inefficiency, or staff shortages. Pretrial detention counts against a convicted detainee's prison sentence. A detainee found innocent has the right to request compensation for this time.

Detainee's Ability to Challenge Lawfulness of Detention before a Court: Persons arrested or detained, regardless of whether on criminal or other grounds, are entitled to challenge in court the legal basis or arbitrary nature of their detention and obtain prompt release and compensation if found to have been unlawfully detained.

## Section 6. Discrimination, Societal Abuses, and Trafficking in Persons

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### Acts of Violence, Discrimination, and Other Abuses Based on Sexual Orientation and Gender Identity

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The constitution and the law prohibit discrimination based on sexual orientation and gender identity. The law bars lesbian, gay, bisexual, transgender, and intersex couples and single women from receiving medically assisted reproductive health care from government-funded health-care providers.

On February 19, the president signed into effect a law giving same-sex couples the same adoption rights as heterosexuals.

### HIV and AIDS Social Stigma

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*No information in this sub-section. Please see the full country report for more.*

### Other Societal Violence or Discrimination

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*No information in this sub-section. Please see the full country report for more.*

### Promotion of Acts of Discrimination

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*No information in this sub-section. Please see the full country report for more.*